

U.S. DEPARTMENT OF ENERGY
NEVADA OPERATIONS OFFICE

ORDER

NV O 311.1A

Approved: 12-21-00
Review Date: 12-21-02
Expires: 12-21-04

**EQUAL EMPLOYMENT OPPORTUNITY
AND DIVERSITY PROGRAMS**



INITIATED BY:
Human Resources Division

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1. OBJECTIVES.

- g. To develop a process to review civil rights compliance of applicants and recipients of federal assistance ensuring they do not discriminate in programs, projects, and activities.

3. APPLICABILITY. This Order applies to:

- d. All Department of Energy (DOE) Nevada Operations Office (DOE/NV) employees responsible for the execution of federal assistance in the form of grants and cooperative agreements.

4. REQUIREMENTS.

h. Pre-Award Compliance Reviews.

- (1) Assurance of Compliance, Nondiscrimination in Federally Assisted Program form, DOE F 1600.5, is to be completed by all applicants of federal assistance (Attachment 1) and reviewed by the DOE/NV Human Resources Division (HRD). If an applicant refuses to either sign or complete the required Assurance of Compliance form, assistance may be denied only after HRD provides a notice of noncompliance.
- (2) The Nondiscrimination in Federally Assisted Programs and Activities Questionnaire (Attachment 2) is to be completed by all applicants of federal assistance and reviewed by DOE/NV HRD. If an applicant refuses to complete the Questionnaire, assistance may be denied but only after providing a notice of noncompliance.
- (3) After careful review of the Assurance of Compliance and Questionnaire, a written determination of compliance or noncompliance will be prepared by DOE/NV HRD. The written compliance of determination will be provided to the Contracts Management Division (CMD) and a copy maintained by HRD.
- (4) A determination of noncompliance will be provided to DOE/NV HRD, CMD, Chief Counsel (CC), and the Contracting Officer (CO).

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i. Post-Award Compliance Reviews.

- (1) A recipient of federal assistance will be selected for a DOE/NV post-award compliance review if any of the following exists:
 - (a) Issues are raised in a formal complaint.
 - (b) Problems are identified by community organizations or advocacy groups that are familiar with actual incidents to support their concerns.
 - (c) Problems are identified by block grant recipients.
 - (d) Problems are identified by other federal, state, or local civil rights agencies.
 - (e) Applicant refuses to complete the Assurance of Compliance and Nondiscrimination in Federally Assisted Programs and Activities Questionnaire.
- (2) All post-award compliance reviews require CO approval and CC concurrence. Request for approval shall identify the reason(s) for the compliance review and a copy of the investigation plan.
- (3) Post-award investigation reports will be in writing and include specific findings of facts and recommendations.

j. Complaints.

- (1) Complainants have 180 days to file a complaint. DOE/NV will not investigate complaints that are deemed frivolous or have no apparent merit. Decisions not to investigate will be documented.
- (2) If a complaint is received that is not within DOE/NV's jurisdiction, the complaint will be referred to the appropriate federal or state agency to address the matter within 7 working days of receipt. The complainant will be notified in writing of this action.

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- (3) DOE/NV HRD shall maintain a log of Title VI complaints received. The log shall include the following:
 - (a) Race, color, or national origin of the complainant.
 - (b) Identity of the recipient.
 - (c) Nature of the complaint.
 - (d) Date the complaint was filed.
 - (e) Date the investigation was completed.
 - (f) Nature of the disposition.

k. Investigations.

- (1) An investigation will include the following:
 - (a) Scope and extent of the compliance review or investigation.
 - (b) Record of interviews with the complainant, the recipient, the recipient's staff, and other witnesses.
 - (c) A review of the recipient's pertinent records.
 - (d) A written final report of findings and recommendations.
- (2) If no violations are found, the recipient and complainant must be notified in writing of the decision within 30 days of the decision.
- (3) If there is adequate evidence to support a finding of noncompliance, the first course of action is to seek voluntary compliance by the recipient.
- (4) If the matter cannot be resolved through voluntary compliance, DOE/NV must make a formal finding of noncompliance and seek enforcement, either through judicial action or administrative fund suspension. Neither action will be invoked without first seeking CC recommendation and CO approval.

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5. RESPONSIBILITIES.

- e. CO, DOE/NV. Approves or denies requests for post-award compliance reviews. Concurs in formal findings of noncompliance and recommended enforcement activity.
- f. CC, DOE/NV. Concurs in request for post-award compliance reviews. Reviews all post-award compliance review findings of noncompliance and recommended enforcement activity.
- g. Director, HRD, DOE/NV. Responsible for monitoring civil rights compliance of applicants and recipients of federal financial assistance. Makes recommendations for pre-award and post-award compliance reviews. Provides written pre-award compliance determinations to CMD.
- h. Director, CMD, DOE/NV. Ensures that the Assurance of Compliance (DOE F 1600.5) and the Federally Assisted Programs and Activities Questionnaire are included in each application for federal assistance. Ensures completed forms are forwarded to HRD for review and a written determination of compliance.
- i. Contract Specialist, CMD, DOE/NV. Obtains the documents in Attachments 1 and 2 during application process and forwards them to HRD for review.

6. REFERENCES.

- t. DOE O 311.1A, EQUAL EMPLOYMENT OPPORTUNITY AND DIVERSITY PROGRAMS. Guidance to ensure that applicants for, and recipients of, federal financial assistance are in compliance with civil rights laws that prohibit discrimination in programs, projects, and activities.
 - u. Title VI Legal Manual, U.S. Department of Justice, September 1998. Provides an overview of the legal principles of Title VI of the Civil Rights Act of 1964.
7. CONTACT. Questions regarding this Order should be referred to HRD at (702) 295-0954.

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8. DEFINITIONS.

- a. Beneficiary. Individuals and/or entities that directly or indirectly receive an advantage through the operation of a federal program. Beneficiaries, however, do not enter into any formal contract or agreement with the federal government where compliance with Title VI is a condition of receiving assistance.
- b. Federal Financial Assistance.
 - (1) Grants and loans of federal funds;
 - (2) The grant or donation of federal property and interest in property;
 - (3) The detail of federal personnel;
 - (4) The sale and lease of, and the permission to use (on other than a casual or transient basis), federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient; and
 - (5) Any federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.
- c. Title VI of the Civil Rights Act of 1964. No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
- d. Title IX of the Education Amendment of 1972. Prohibits discrimination in education on the basis of sex.
- e. Program/Activities.
 - (1) State and Local Governments. The operations of:
 - (a) A department, agency, special purpose district, or other instrumentality of a state or of a local government; or

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- (b) The entity of such state or local government that distributes such assistance and each such department or agency (and each other state or local government entity) to which any part of which is extended federal financial assistance.

(2) Educational Institutions. All of the operations of:

- (a) A college, university, or other post-secondary institution, or a public system of higher education; or
- (b) A local educational agency, system of vocational education or other school system; any part of which is extended federal financial assistance.

(3) Corporations and Private Entities. All of the operations:

- (a) An entire corporation, partnership, or other private organization, or an entire sole proprietorship.
 - 1 If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or
 - 2 Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or
 - 3 The entire plant or other comparable, geographically separate facility to which federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; any part of which is extended federal financial assistance.

- f. Recipient. Any state, political subdivision of any state, or instrumentality of any state or political subdivision, any public or private agency, institution, or organization, or other entity, or any individual, in any state, to whom federal financial assistance is extended.
- g. Section 504 of the Rehabilitation Act of 1973. Prohibits discrimination on the basis of disability.

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- h. Subrecipient. Any persons, state, or its subdivision; any instrumentality of a state or its political subdivision; any public or private agency institution, organization, or other entity; or any program to which federal financial assistance is extended, directly or through another recipient, but excluding any ultimate beneficiary of assistance.



Kathleen A. Carlson
Manager

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Attachment 1
Page 1

DOE F 1600.5
(06-94)
All Other Editions Are Obsolete

U.S. Department of Energy Assurance of Compliance Nondiscrimination In Federally Assisted Programs

OMB Control No.
1910-0400

OMB Burden Disclosure Statement

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Office of Information Resources Management Policy, Plans, and Oversight, Records Management Division, HR-422 - GTN, Paperwork Reduction Project (1910-0400), U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20585; and to the Office of Management and Budget (OMB), Paperwork Reduction Project (1910-0400), Washington, DC 20503.

(Hereinafter called the "Applicant")

HEREBY AGREES to comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), Section 16 of the Federal Energy Administration Act of 1974 (Pub. L. 93-275), Section 401 of the Energy Reorganization Act of 1974 (Pub. L. 93-438), Title IX of the Education Amendments of 1972, as amended, (Pub. L. 92-318, Pub. L. 93-568, and Pub. L. 94-482), Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), the Age Discrimination Act of 1975 (Pub. L. 94-135), Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284), the Department of Energy Organization Act of 1977 (Pub. L. 95-91), the Energy Conservation and Production Act of 1976, as amended, (Pub. L. 94-385) and Title 10, Code of Federal Regulations, Part 1040. In accordance with the above laws and regulations issued pursuant thereto, the Applicant agrees to assure that no person in the United States shall, on the ground of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity in which the Applicant receives Federal assistance from the Department of Energy.

Applicability and Period of Obligation

In the case of any service, financial aid, covered employment, equipment, property, or structure provided, leased, or improved with Federal assistance extended to the Applicant by the Department of Energy, this assurance obligates the Applicant for the period during which Federal assistance is extended. In the case of any transfer of such service, financial aid, equipment, property, or structure, this assurance obligates the transferee for the period during which Federal assistance is extended. If any personal property is so provided, this assurance obligates the Applicant for the period during which it retains ownership or possession of the property. In all other cases, this assurance obligates the Applicant for the period during which the Federal assistance is extended to the Applicant by the Department of Energy.

Employment Practices

Where a primary objective of the Federal assistance is to provide employment or where the Applicant's employment practices affect the delivery of services in programs or activities resulting from Federal assistance extended by the Department, the Applicant agrees not to discriminate on the ground of race, color, national origin, sex, age, or disability, in its employment practices. Such employment practices may include, but are not limited to, recruitment, advertising, hiring, layoff or termination, promotion, demotion, transfer, rates of pay, training and participation in upward mobility programs; or other forms of compensation and use of facilities.

Subrecipient Assurance

The Applicant shall require any individual, organization, or other entity with whom it subcontracts, subgrants, or subleases for the purpose of providing any service, financial aid, equipment, property, or structure to comply with laws and regulations cited above. To this end, the subrecipient shall be required to sign a written assurance form; however, the obligation of both recipient and subrecipient to ensure compliance is not relieved by the collection or submission of written assurance forms.

Data Collection and Access to Records

The Applicant agrees to compile and maintain information pertaining to programs or activities developed as a result of the Applicant's receipt of Federal assistance from the Department of Energy. Such information shall include, but is not limited to the following: (1) the manner in which services are or will be provided and related data necessary for determining whether any persons are or will be denied such services on the basis of prohibited discrimination; (2) the population eligible to be served by race, color, national origin, sex, age, and disability; (3) data regarding covered employment including use or planned use of bilingual public contact employees serving beneficiaries of the program where necessary to permit effective participation by beneficiaries unable to speak or understand English; (4) the location of existing or proposed facilities connected with the program and related information adequate for determining whether the location has or will have the effect of unnecessarily denying access to any person on the basis of prohibited discrimination; (5) the present or proposed membership by race, color, national origin, sex, age and disability in any planning or advisory body which is an integral part of the program; and (6) any additional written data determined by the Department of Energy to be relevant to the obligation to assure compliance by recipients with laws cited in the first paragraph of this assurance.

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The Applicant agrees to submit requested data to the Department of Energy regarding programs and activities developed by the Applicant from the use of Federal assistance funds extended by the Department of Energy. Facilities of the Applicant (including the physical plants, buildings, or other structures) and all records, books, accounts, and other sources of information pertinent to the Applicant's compliance with the civil rights laws shall be made available for inspection during normal business hours on request of an officer or employee of the Department of Energy specifically authorized to make such inspections. Instructions in this regard will be provided by the Director, Office of Civil Rights, U.S. Department of Energy.

This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts (excluding procurement contracts), property, discounts or other Federal assistance extended after the date hereof, to the Applicants by the Department of Energy, including installment payments on account after such data of application for Federal assistance which are approved before such date. The Applicant recognizes and agrees that such Federal assistance will be extended in reliance upon the representations and agreements made in this assurance, and that the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant, the successors, transferees, and assignees, as well as the person(s) whose signatures appear below and who are authorized to sign this assurance on behalf of the Applicant.

Applicant Certification

The Applicant certifies that it has complied, or that, within 90 days of the date of the grant, it will comply with all applicable requirements of 10 C.F.R. §1040.5 (a copy will be furnished to the Applicant upon written request to DOE).

Designated Responsible Employee

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| Name and Title (Printed or Typed) | Telephone Number |

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| Signature | Date |

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| Applicant's Name | Telephone Number |

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| Address: | Date |

Authorized Official:
President, Chief Executive Officer
or Authorized Designee

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| Name and Title (Printed or Typed) | Telephone Number |

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| Signature | Date |

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Page 1**

**NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND
ACTIVITIES QUESTIONNAIRE**

Under federal law, the U.S. Department of Energy must ensure that recipients use any financial assistance granted by the Department in a nondiscriminatory way.

Please complete the following questionnaire.

1. Have any Title VI and/or Title IX (and Section 504/Americans with Disabilities Act) complaints been filed against you, the recipient in the last two years?

_____No.

_____Yes. Please describe the complaint(s) and its disposition.

2. Did you, the recipient, sign and understand the Assurance of Compliance Statement?

_____Yes.

_____No. Please Explain.

3. Do you, the recipient, have a formal nondiscrimination policy?

_____Yes.

_____No. Please explain.

4. Have you, the recipient, informed your beneficiaries of their rights under the applicable civil rights statutes?

_____Yes. Please describe the steps taken to disseminate the information.

_____No. Please Explain.

5. Are beneficiaries provided a copy of your nondiscrimination policy?

_____Yes.

_____No. Please explain.

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6. Are federal nondiscrimination posters within view of beneficiaries?

_____ Yes.

_____ No. Please explain.

7. Do you have a procedure for processing complaints of discrimination filed by beneficiaries?

_____ Yes

_____ No. Please explain.

8. How do you inform beneficiaries that they can file a complaint of discrimination if they believe they have been discrimination against and where they may file a complaint?

_____ Yes.

_____ No.

9. Does your complaint procedure provide for an unbiased investigation and where a beneficiary can appeal if dissatisfied with the results?

_____ Yes

_____ No.

10. Are any DOE or other federal or state agencies (organizations) investigating complaints of discrimination against you?

_____ No.

_____ Yes. Please explain.

11. Will the grant/cooperative agreement benefit minorities and women?

_____ Yes. Please explain.

_____ No. Please explain.

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12. Do you conduct outreach to make all segments of your community aware of your programs, including minorities and women?

_____ Yes. Please explain.

_____ No. Please explain.

Signature of Person Completing Form/Date

Title